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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/580,179	05/26/2000	Dominique Commereuc	PET-1845	8780

23599 7590 03/16/2004

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EXAMINER

PASTERCZYK, JAMES W

ART UNIT	PAPER NUMBER
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1755

DATE MAILED: 03/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.



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EXAMINER

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20040311

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Commissioner for Patents

1. This letter is in response to the Reply Brief filed 2/23/04.

2. The Reply Brief filed 2/23/04 has been entered and considered.

3. Regarding appellants' contention that it is claim 21 which is broader rather than claim 1, the examiner concedes the point upon further consideration. Claim 21 does not place limitations upon the time or temperature of catalyst preconditioning, and the Bronsted acid need not be organic in this independent claim.

4. Regarding appellants' contention that the prior art fails to teach or disclose the simultaneous combination of all three reagents that go into making an active catalyst, the examiner notes that in Chauvin II, col. 3, l. 12-16 "[t]he process may be carried out in a reactor with one or more reaction stages in series, the olefin charge and/or the constituents of the catalyst system being introduced continuously either in the first stage or in the first and in any one of the other stages" (emphasis added). The process being discussed is the olefin oligomerization reaction, but this reaction is not possible until an active catalyst is first produced. Absent is the necessity that the first stage be an olefin oligomerization stage. It is thus believed clear from this disclosure that the first stage is taught to include preparation of the active catalyst by combining all three of the precursors to the catalyst. One of ordinary skill in the art would have recognized that an active catalyst is not formed until all the required ingredients are present, and that this simultaneous presence is consistent with appellants' preconditioning step. Courts have recognized that every patent application and reference relies to some extent on the knowledge of persons skilled in the art to complement the knowledge disclosed in order that the invention be enabling under 35 USC 112, first paragraph and to satisfy the requirements of a reference under 35 USC 102 and by inference 35 USC 103; *In re Bode*, 193 USPQ 12 (CCPA 1977).

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Furthermore, courts have recognized that the hypothetical person of 35 USC 103 having ordinary skill in the art is assumed to possess detailed knowledge of all there is to know in his field, and that such a hypothetical person is held accountable not only for specific teachings of references but also the inferences which those skilled in the art may reasonably be expected to draw; *Esso Research and Engineering Co. v. Kahn & Co., Inc.*, 183 USPQ 582 (Dist.Ct. Conn 1974); *aff'd* 186 USPQ 317 (2d Cir. 1975). It would thus seem reasonable to expect that one of ordinary skill in the catalyst art would have recognized that in order to produce a functioning catalyst, all the reactants that go into making up such a catalyst would have to be present and intermixed for some time sufficient to allow any chemical reactions among them to occur. This corresponds to appellants' "preconditioning".

5. Regarding appellants' assertion that the Chauvin I and II references are drawn to non-analogous art, both references are drawn to catalysts for oligomerizing olefins, as their abstracts state. No other showing is necessary to establish that these references are analogous art and thus properly combinable.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Pasterczyk whose telephone number is 571-272-1375. The examiner can normally be reached on M-F 9-5:30.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Bell can be reached at 571-272-1362. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Mark L. Bell
Supervisory Patent Examiner
Technology Center 1700

Conferee


SPE - AU1745
conferee